

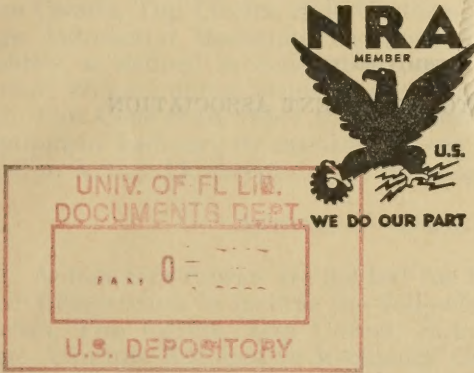
NATIONAL RECOVERY ADMINISTRATION

PROPOSED CODE OF FAIR COMPETITION

FOR THE

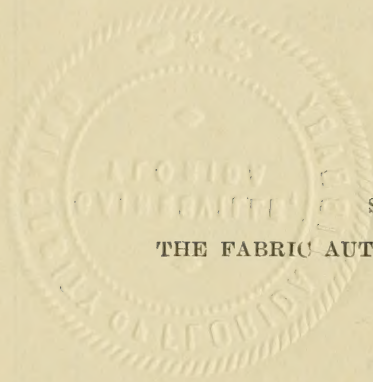
**FABRIC AUTO EQUIPMENT
INDUSTRY**

AS SUBMITTED ON AUGUST 31, 1933



The Code for the Fabric Auto Equipment Industry
in its present form merely reflects the proposal of the above-mentioned
industry, and *none of the provisions contained therein are*
to be regarded as having received the approval of
the National Recovery Administration
as applying to this industry

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933



SUBMITTED BY

THE FABRIC AUTO EQUIPMENT ASSOCIATION

(II)

PROPOSED CODE OF FAIR COMPETITION FOR THE FABRIC AUTO EQUIPMENT INDUSTRY

For the purpose of effectuating the policy of the United States Government as declared in Title 1, Section 1, of the National Industrial Recovery Act, the members of the Fabric Auto Equipment Industry hereby apply to the President pursuant to Section 3 of the said Act, to approve the following Code of Fair Competition for the Fabric Auto Equipment Industry, within the area herein defined, and, subject to such approval, they hereby agree to all of the terms of this Code.

ARTICLE I—APPLICATION OF THE CODE

1. This Code of Fair Competition (hereinafter referred to as the "Code") shall apply to all manufacturers of Seat and Slip Covers, Tire Covers, Top Covers, Side Curtains, Auto Cushions, Auto Awnings, Automotive Mechanics' Garments, Fabric Accessories for automobiles, as defined in Schedule 1 hereto attached and made a part hereof, who are doing business in the United States.

2. This Code shall apply to all business done in said Fabric Auto Equipment Industry by members of the industry in the manner defined in Article II, except export business.

ARTICLE II—DEFINITIONS

1. Automotive fabrics are defined for the purposes of the Code of Fair Competition to include the following products: Seat and Slip Covers, Tire Covers, Top Covers, Side Curtains, Auto Cushions, Auto Awnings, Automotive Mechanics' Garments, Fabric Accessories for Automobiles. Of these products, the Fabric Auto Equipment Industry represents 80% of the total production of the country East of the Rockies.

2. Nothing contained in this Code of Fair Competition shall be construed as prohibiting any member of the industry from exercising all its and/or their lawful patent rights or as requiring any member of the industry to do any act in conflict with the terms of a patent licensing agreement legally binding upon such member.

ARTICLE III—SPECIFIC AGREEMENTS WITH THE GOVERNMENT

1. Participation in this Code, and any subsequent revision of, or addition to the Code, shall be extended to any person, partnership, association, or corporation in the fabric auto equipment industry who shall accept his share of the cost and the responsibility, as well as the benefit, of such participation. This may be effected by membership in the Fabric Auto Equipment Association or by the payment to this

organization of an amount equal to the dues paid by its members for the creation and administration of this Code of Fair Competition.

2. The members of the industry who subscribe to this Code are hereinafter referred to as the "parties hereto", and they agree that the provisions of the Code shall be the standards of fair competition for the Fabric Auto Equipment Industry in the territory designated herein, and that every violation of the standards established in the Code shall be deemed an unfair method of competition in commerce within the meaning of the Federal Trade Commission Act as amended and shall subject the party guilty of any such violation to penalties as provided in Title 1 of the National Industrial Recovery Act.

3. The parties hereto agree with each other, and agree jointly and severally with the Government of the United States, as a consideration of obtaining the President's approval of this Code:

4. That the parties hereto will impose no inequitable restriction on admission to membership in the Association or group of which they are a part, and that the parties hereto are truly representative of the Fabric Auto Equipment Industry.

5. That this Code is not designed to promote monopolies or to eliminate or oppress small enterprises, and will not operate to discriminate against them, and will tend to effectuate the policy of Title 1 of the National Industry Recovery Act.

6. That the parties hereto will abide by such conditions (including requirements for the making of reports and the keeping of accounts) for the protection of customers, competitors, employees, and others, and in the furtherance of the public interest, as the President in his discretion deems necessary to effectuate the policy declared in said Act.

ARTICLE IV—LABOR CODE

1. Employees of the Fabric Auto Equipment Industry shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

2. No employee and no one seeking employment in the Fabric Auto Equipment Industry shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

3. Employers in the Fabric Auto Equipment Industry shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President of the United States.

4. The provisions of Article III hereof, however, are not to be deemed to impair in any particular the constitutional rights of the employee or employer to bargain as may be mutually satisfactory to them. Nothing in this code is to prevent the selection, retention, discharge, or advancement of employees on the basis of their individual merit.

5. The President of the United States may from time to time cancel or modify any order, approval, license, rule, or regulation issued under Title I of the National Industrial Recovery Act.

ARTICLE V—THE FABRIC AUTO EQUIPMENT ASSOCIATION

1. The parties hereto who are members of an incorporated association known as the Fabric Auto Equipment Association (hereinafter referred to as the "Association") shall continue as members of said Association subject to withdrawal therefrom, as provided in the Constitution of the Association.

2. The approval of this Code by the President shall constitute a cancellation of the Constitution and By-Laws of the Association as now in effect, and from the date of said approval the Constitution and By-Laws of said Association shall be in the form hereto attached, and the parties to this Code who are members of said association agree to take all action necessary to make said Constitution and By-Laws effective immediately upon the approval of this Code by the President.

3. The Association will serve as an agency for collecting statistical data as to costs, production, sales, and other matters affecting the industry as to which the Government may require information, and the manufacturers engaged in the industry shall furnish such information and make such reports to the Association as may be necessary in order to enable the Association to collect and furnish to the Government the information required under the terms of the National Industrial Recovery Act. The manufacturers shall keep their accounts in such form as may be necessary to enable them to furnish information desired by the Government.

ARTICLE VI—PROTECTION OF EMPLOYEES AND OF THE PUBLIC INTEREST

1. The Association, acting through its Executive Committee and agents duly appointed, shall proceed with due diligence to gather from members of the industry information as to cost of production, accounting systems, wages, working hours, and other relevant data for the purpose of preparing and submitting to the President for approval an agreement between members of the industry which will adequately protect employees, consumers, competitors, members of the trade, and others in furtherance of the public interest as contemplated by Title 1, Section 4, of the National Industrial Recovery Act.

ARTICLE VII—HOURS AND WAGES

1. On and after the effective date the minimum wage that shall be paid by employers in the Fabric Auto Equipment Industry shall be at the rate of \$13.00 per week when employed in that section of the industry north of the Mason and Dixon line, and \$12.00 per week when employed in that section of the industry south of the Mason and Dixon line.

Exceptions shall be made in the case of beginners, who may be employed up to ten weeks at not less than 75% of the minimum wage, but in no case shall beginners constitute more than 15% of

the employees in any plant. Exceptions shall also be made for cleaners and outside employees.

2. On and after the effective date employers in the Fabric Auto Equipment Industry shall not operate on a schedule of hours of labor for their employees—except repair-shop crews, engineers, electricians, firemen, office and supervisory staff, shipping, watching and outside crews, and cleaners—in excess of 40 hours per week, and they shall not operate productive machinery in the Fabric Auto Equipment Industry for more than two shifts of 40 hours each per week.

3. On and after the effective date employers in the Fabric Auto Equipment Industry shall not employ any minor under the age of 16 years.

4. On and after the effective date, employers in the Fabric Auto Equipment Industry shall not employ prison labor or use or offer for sale the product of any penal institution.

5. On and after the effective date, in establishments where there are numerous owners or partners, those who perform the manual labor shall work in conformity with the maximum hours and minimum wages provided in this Code.

6. On and after the effective date the practice of performing any operation in a home, residence, or place other than a recognized manufacturing plant of fabric auto equipment shall be a violation of this Code.

7. The Code of Ethics attached hereto shall constitute a Code of Ethics for the Fabric Auto Equipment Industry. The parties hereto agree that they will not engage in any practice condemned or prohibited in said Code of Ethics of therein designated as an unfair trade practice. The Code of Ethics shall constitute an integral part of this Code of Fair Competition.

8. This Code of Ethics may be changed from time to time by vote of two-thirds of the members of the Association provided such changes shall first have been approved by the Executive Committee of the Association and shall be effective for the industry upon approval by the President of the United States.

ARTICLE VIII—ENFORCEMENT OF THE CODE

1. The Executive Committee of the Association shall designate an agent or agents to investigate complaints of violations of this Code. The members of the industry shall facilitate such investigation by opening their correspondence, books, and accounts for examination by the authorized representatives of the Association and by furnishing relevant information. In the event of any wilful violation being disclosed the Executive Committee may present evidence thereof to the proper department, agency or judicial branch of the Government.

The foregoing Code of Fair Competition has been agreed to by the members of the Fabric Auto Equipment Industry, acting through their officers thereunto duly authorized.

ARTICLE IX—CODE OF ETHICS

1. *Employees*—(a) *Enticing employees from competitors*.—Maliciously enticing away an employee or employees of competitors

with the intent of unduly hampering, injuring, or embarrassing a competitor or competitors in the conduct of their business is an unfair trade practice.

2. *Merchandise*—(a) *Misbranding*.—Misrepresentation as to the weight, quantity, quality, size, or grade of any product sold or offered for sale is an unfair trade practice. Failure to mark or brand each product with respect to the quantity, quality or grade thereof with the intent of misleading purchasers or prospective customers is an unfair trade practice.

(b) *Seconds*.—No first-quality merchandise can be sold as seconds. All seconds must be labeled or marked so as to be visible by the purchaser.

3. *Invoicing*—(a) *Omission of data*.—Any items pertaining to the sale omitted from the invoice, such as allowance of overriding discount payable at some future date, shall be considered an unfair trade practice. Extra terms or allowance must be noted on invoice and in no case shall terms exceed 2% cash discount.

(b) *Unauthorized deductions*.—Permitting a customer to make any deductions from the invoice not covered by the terms of sale in making his remittance shall be considered an unfair trade practice.

(c) *Free goods*.—No manufacturer shall ship or in any way deliver free goods of any kind to any customer for resale by that customer.

(d) *Samples*.—Samples of completed products must be invoiced.

(e) *Other products*.—No manufacturer shall subnormally price any products manufactured or sold by him for the purpose of furthering sale of any other products.

(f) The present 2% excise tax is to be shown on the invoice as a separate item excepting in the case of those manufacturers who sell to the jobbing or wholesale trade who are to include the excise tax in their selling price. The following articles are subject to the 2% excise tax: Auto Seat and Slip Covers; Top Recovers; Top Decks; Side Curtains; Rear Curtains; Top Boots; Auto Floor Carpets; Auto Awnings; Inside Auto Shades and any other auto fabrics cut to size. All tire covers, advertising or nonadvertising covers with tread bands, paper or fabric, are taxable. Tire cover fronts are not taxable; the painting and art work if shown separate on invoices is not taxable.

4. *Transportation*—(a) *Diversion of shipments*.—All merchandise to be sold F.O.B. factory.

5. *Advertising*—(a) *Misrepresentation*.—Advertisements, statements, or references which directly or indirectly reflect falsely upon the merchandise, policies, or financial standing of any competitor or which are detrimental to the best interests and welfare of the industry are unfair trade practices.

6. *Subsidies*—(a) *Lavish entertainment*.—Manufacturers shall not encourage nor permit lavish entertainment of a customer by themselves or their employees.

(b) *Bets, gratuities, loans, etc.*—No officials, salesman, or other employee shall make bets or in any way gamble with any customer or customer's employees for the purpose or with the intent of losing, nor shall any salesman or employee give any gratuity, cash, or present of substantial value to any customer or prospective customer or



customer's employee. No officials, salesman, or employee shall make loans of any kind to any customer or prospective customer or customer's employees.

(c) *Consignments*.—There shall be no consignments of goods made to any customer.

(d) *Splitting commissions*.—Salesmen or other employees shall not split nor otherwise share their commissions or compensation with any present or prospective customer or customer's employees.

(e) *Excessive allowance and adjustments*.—No manufacturer shall make any excessive allowance to a customer for alleged defective merchandise, alleged shortages, or for adjusting complaints of any kind.

7. *Cut-throat competition*.—Selling goods below manufacturers' own cost is an unfair trade practice. Costs shall be calculated on the following basis which must include market quotation of all materials within two weeks of the date quotation is made, plus all direct labor costs, plus 35% as a minimum selling price. For example, the cost of a tire cover would be the cost of fabric, thread, elastic, seaming cord, shipping carton, individual carton or wire hoop, paint, and other materials, together with labor, such as cutting, sewing, finishing, packing, making stencil, imprinting, and all other direct labor plus an additional 35% to cover administrative, warehousing, transportation, collection, taxes, depreciation, depleting, and obsolescence.

It is generally recognized that the proper "mark-up" is 50 to 70% and the minimum figure of 35% is only mentioned to be used where a company is figuring on a large order in which there are no advertising or selling expenses involved.

8. *Sundries*.—(a) *Resales*.—The manufacturer will encourage his own customers to maintain a fair margin of profit in resales and to make possible a profitable handling of his products by other similar customers.

(b) *Arbitration*.—Where the costs of executing contracts entered into in the Fabric Auto Equipment Industry prior to the presentation to Congress of the National Industrial Recovery Act are increased by the application of the provisions of that Act to the industry, it is equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts to reflect such increased costs be arrived at by arbitral proceedings or otherwise, and the Fabric Auto Equipment Association, the applicant for this Code, is constituted an agency in effecting such adjustments.

(c) *Blanket orders and future orders*.—It is a violation of this Code for a manufacturer of advertising tire covers to sell and deliver a quantity of tire covers at a price lower than the price actually applying to the quantity shipped at each time and such action is an unfair trade practice.

(d) *General*.—No practice or subterfuge contrary to the spirit of this Code of Ethics shall be indulged in by any employee of any manufacturer.